

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

**CELGENE CORPORATION,**

**Plaintiff,**

v.

**APOTEX INC.,**

**Defendant.**

**Civil Action No. 18-461 (SDW)(LDW)**

**Hon. Susan D. Wigenton, U.S.D.J.  
Hon. Leda D. Wettre, U.S.M.J.**

**CONSENT JUDGMENT**

WHEREAS Plaintiff Celgene Corporation (“Celgene”) brought this action against Apotex Inc. (“Apotex” or “Defendant”);

WHEREAS Celgene asserted that, among other things, Apotex’s submission of ANDA No. 211022 infringes claim numbers 1-10 of U.S. Patent No. 7,855,217 (“Asserted Claims”) (*see* D.I. 1);

**THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:**

1. This Court has jurisdiction over the subject matter of the above-captioned action and personal jurisdiction over the parties;
2. The Asserted Claims are valid and enforceable;
3. Apotex’s product that is the subject of ANDA No. 211022 does not infringe any of the Asserted Claims;
4. Judgment of non-infringement is therefore entered in favor of Apotex and against Celgene as to Count VII (Infringement of the ’217 Patent) of Celgene’s Complaint (D.I. 1);
5. Count VII (Infringement of the ’217 Patent) of Celgene’s Complaint (D.I. 1) is hereby dismissed with prejudice;

6. Nothing herein shall extend to any other patents, claims, counterclaims, or affirmative defenses that have been asserted or could have been asserted in the above-referenced litigation.

7. Each party shall bear its own costs, expenses, and attorneys' fees associated herewith, including in connection with proceedings on U.S. Patent No. 7,855,217.

8. This court retains jurisdiction to enforce or supervise performance under this Consent Judgment.

We hereby consent to the form and entry of this Judgment:

Dated: April 26, 2019

By: s/ Charles M. Lizza

Charles M. Lizza  
William C. Baton  
Sarah A. Sullivan  
SAUL EWING ARNSTEIN & LEHR LLP  
One Riverfront Plaza, Suite 1520  
Newark, NJ 07102-5426  
(973) 286-6700  
clizza@saul.com

OF COUNSEL:

F. Dominic Cerrito  
Eric C. Stops  
Andrew S. Chalson  
QUINN EMANUEL URQUHART & SULLIVAN,  
LLP  
51 Madison Avenue, 22nd Floor  
New York, NY 10010  
(212) 849-7000

Anthony M. Insogna  
Cary Miller, Ph.D.  
JONES DAY  
4655 Executive Drive, Suite 1500  
San Diego, CA 92121  
(858) 314-1200

Matthew J. Hertko  
JONES DAY  
77 West Wacker Drive, Suite 3500  
Chicago, IL 60601  
(312) 782-3939

*Attorneys for Plaintiff  
Celgene Corporation*

By: s/ Robert J. Schoenberg

Robert J. Schoenberg  
Stephanie R. Wolfe  
RIKER DANZIG SCHERER HYLAND  
& PERRETTI LLP  
One Speedwell Avenue  
Morristown, NJ 07962-1981  
Tel: (973) 538-0800  
Email: rschoenberg@riker.com

John J. Molenda (*Pro Hac Vice*)  
Vishal C. Gupta  
Robert Greenfeld  
Richard Praseuth (*Pro Hac Vice*)  
STEPTOE & JOHNSON LLP  
1114 Avenue of the Americas  
New York, NY 10036  
Tel: (212) 506-3900  
Email: jmolenda@steptoe.com

*Attorneys for Defendant  
Apotex Inc.*

SO ORDERED on this 30<sup>th</sup> day of April, 2019

Hon. Susan D. Wigenton, U.S.D.J.